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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,190	01/23/2004	Peter Fyler Lynch	9495	8071

27752 7590 10/31/2005

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EXAMINER

DOOLEY, JAMES C

ART UNIT

PAPER NUMBER

3634

DATE MAILED: 10/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/764,190	Applicant(s) LYNCH, PETER FYLER	
	Examiner James C. Dooley	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>1/23/04; 4/16/04; and 6/21/05</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because photographs can not be scanned with the definition required for publication. Scanned photographs appear dark and it is unclear if information is hidden in dark areas. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-5, 8-9, 12 are rejected under 35 U.S.C. 102(b) as being anticipated by House (US 1,621,410). House discloses a supporting rack (10) having a display apparatus (12) comprising a top support (14) and 1st and 2nd vertical support member (13). It can be seen that the top support (14) is substantially horizontal when compared to the vertical support members. Also, it is apparent that the top ends of both the first and second vertical support members are joined to the top support member. As shown

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in figure 1 Top support member (14), together with first and second support members (13) provide a structural support.

The entire length of the top support (14) is seen as being non-linear as it is comprised of a curved section (ln. 45).

House also discloses the bottom ends of the vertical support members (13) functioning as fastening means (ln. 45-52).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 6, 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over House in view of Heroy (US 3,669,278). House discloses a shelf display apparatus (12) having a top support (14) and 1st and 2nd vertical supports (13) joined to the top support, wherein the lower end of the vertical supports function as a fastening means. House does not disclose the fastening means comprising a base plate. Heroy teaches a shelf display apparatus (12) having a non-linear upper portion and at least first and second vertical support members (14). Heroy teaches a horizontal bottom plate (16) parallel and juxtaposed to the shelf and having a fastener (24). Heroy also teaches the fastening members engaging an opening in the shelf (col. 3 ln. 5-7). From figure 1 it can be seen that the bottom plate with fastener assembly is connected to at least a 1st and

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2nd vertical support member at a lower portion (17). Accordingly, it would have been obvious to one with ordinary skill in the art at the time of the invention to modify the fastening means of House to include bottom plates as taught by Heroy. The motivation being to promote stability of the display apparatus.

3. Claims 7, 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over House in view of Braverman (4,013,252). House discloses a display apparatus having the features described above. House does not disclose a U-shaped bracket fixing the vertical members to the shelf. Braverman teaches bracket having a U-shaped member (13) for co-operating with perforations (col. 3 ln. 23). Accordingly, it would have been obvious to one with ordinary skill in the art at the time of the invention to modify the fastening means of House to include a U-shaped member on both the first and second ends. The motivation being that it is well known in the art of peg board type displays to utilize U-shaped members as brackets. The shelf described by Applicant is seen as horizontally placed peg board display.

4. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over House in view of Ingelson (US 2,747,959). House discloses a display apparatus having the features described above. House does not disclose the display apparatus having a solid wall. Ingelson teaches a divider (1) having non-linear portion extending the entire length of the top support surface comprising a solid wall (fig. 1). Accordingly, it would have been obvious to one with ordinary skill in the art at the time of the invention to modify the support structure of House to include a solid wall. The motivation being to provide additional support.

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5. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over House in view of Weitzner (4,199,068). House discloses a display apparatus having the features described above. House does not disclose utilizing this rack to display absorbent articles. Weitzner teaches a display and dispensing means for absorbent articles having adjustable shelf divider means (39). Accordingly, it would have been obvious to one with ordinary skill in the art at the time of the invention to utilize the rack of House to display absorbent articles. The motivation being that the rack of house could be used to display any type of appropriately sized article.

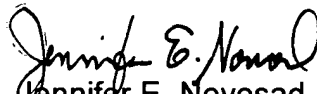
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James C. Dooley whose telephone number is 571-2721679. The examiner can normally be reached on M-F 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jennifer E. Novosad
Primary Examiner
Art Unit 3634


10/26/2005